



**PRESENT:**

Mr. Jack R. Wilson, III, Chairman  
Mr. Daniel A. Gecker, Vice-Chairman  
Mr. Sherman W. Litton  
Mr. F. Wayne Bass  
Mr. Kirkland A. Turner, Secretary to the Commission,  
Planning Director

**ABSENT:**

Mr. Russell J. Gulley

**ALSO PRESENT:**

Mr. Michael E. Tompkins, Assistant Director/Zoning Administrator,  
Development Review, Planning Department  
Ms. Beverly F. Rogers, Assistant Director, Zoning and  
Special Projects, Planning Department  
Mr. Robert V. Clay, Principal Planner, Zoning and  
Special Projects, Planning Department  
Ms. Jane Peterson, Principal Planner, Zoning and  
Special Projects, Planning Department  
Ms. Darla W. Orr, Principal Planner, Zoning and  
Special Projects, Planning Department  
Ms. Teresa C. Davis, Administrative Secretary, Zoning and  
Special Projects, Planning Department  
Mr. Carl D. Schlaudt, Planning Administrator,  
Development Review, Planning Department  
Mr. Gregory E. Allen, Planning Administrator,  
Development Review, Planning Department  
Mr. Alan G. Coker, Senior Planner, Development  
Review, Planning Department  
Mr. Joseph E. Feest, Planning Administrator, Development  
Review, Planning Department

Ms. Barbara Fassett, Planning Administrator, Advance Planning  
and Research Branch, Planning Department  
Mr. James K. Bowling, Principal Planner, Advance Planning  
and Research Branch, Planning Department  
Mr. Steven F. Haasch, Senior Planner, Advance Planning and  
Research Branch, Planning Department  
Ms. Linda N. Lewis, Administrative Assistant, Administrative  
Branch, Planning Department  
Ms. Lisa Caudill, Secretary, Administrative Branch,  
Planning Department  
Mr. David W. Robinson, Assistant County Attorney,  
County Attorney's Office  
Mr. Allan M. Carmody, Budget Manager,  
Budget and Management Department  
Mr. R. John McCracken, Director,  
Transportation Department  
Mr. Richard M. McElfish, Director,  
Environmental Engineering Department  
Mr. Scott Flanagan, Acting Water Quality Administrator,  
Environmental Engineering Department  
Mr. Randolph Phelps, Senior Engineer,  
Utilities Department  
Mr. Michael S. Golden, Director,  
Parks and Recreation Department  
Lt. John P. Jones, Assistant Fire Marshal, Fire & Life Safety,  
Fire & EMS Department  
Ms. Cynthia O. Richardson, Director of Planning,  
School Administration

### **WORK SESSION**

At approximately 12:00 p. m., Messrs. Wilson, Gecker, Litton, Bass and staff met in Room 502 of the Chesterfield County Administration Building for lunch and a work session to discuss the following:

- A. Requests to Postpone Action, Emergency Additions or Changes in the Order of Presentation.**
- B. Review Upcoming Agendas.**  
(NOTE: At this time, any rezonings or conditional uses scheduled for future meetings will be discussed.)
- C. Review Day's Agenda.**  
(NOTE: At this time, any items listed for the 3:00 p. m. and 7:00 p. m. Sessions will be discussed.)
- D. Plans and Information Section Update.**
- E. Work Program – Review and Update.**

**F. Consideration of the following Administrative Substantial Accord Determination:**

<b><u>CASE AND DISTRICT</u></b>	<b><u>APPLICANT</u></b>	<b><u>REQUEST</u></b>	<b><u>PROJECT NAME</u></b>
06PD0297 Bermuda	Chesterfield County Parks & Recreation	Substantial Accord Determination	Harrowgate Park Expansion
<b>G.</b>	<b>Proposed <u>Upper Swift Creek Plan Amendment.</u></b>		
<b>H.</b>	<b>Proposed <u>Northern Courthouse Road Plan Amendment.</u></b>		
<b>I.</b>	<b>Proposed Code Amendment Relative to Zoning Certificate Fees.</b>		
<b>J.</b>	<b>Adjournment.</b>		

**A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission amended the agenda to add amendment of the December 15, 2005, Planning Commission Minutes to Section V. of the 3:00 p. m. Afternoon Session Agenda and to add new Items VI. and XIV., Citizens' Input on Unscheduled Matters, to the 7:00 p. m. Evening Session and reordered the agenda accordingly.

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

**B. REVIEW UPCOMING AGENDAS.**

Ms. Rogers presented an overview of the Commission's upcoming case schedules for the April 18, May 16, and June 20, 2006 Planning Commission meetings.

On motion of Mr. Litton, seconded by Mr. Gecker, the Commission suspended their By-Laws to increase the caseload for the 7:00 p. m. Session of the May 16, 2006, Planning Commission Meeting to accommodate deferrals only.

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

**C. REVIEW DAY'S AGENDA.**

Mr. Tompkins presented an overview of, and staff's recommendations for, requests to be considered at the 3:00 p. m. Afternoon Session.

Ms. Rogers presented an overview of, and staff's recommendations for, requests to be considered at the 7:00 p. m. Evening Session.

Mr. Schlaudt presented an overview of information, requested by the Commission at a previous meeting, regarding the Code Amendment relative to multifamily and townhouse uses in C-3, C-4 and C-5 Districts which was scheduled for action at the 7:00 p. m. Evening Session.

**D. PLANS AND INFORMATION SECTION UPDATE.**

There were no updates for the Plans and Information Section.

**E. WORK PROGRAM.**

Upon conclusion of discussion relative to the Commission's Work Program, it was on motion of Mr. Gecker, seconded by Mr. Litton, that the Commission removed the Differential Cash Proffer Policy from the projects list of the Work Program as it was ascertained that no further work was necessary and adopted the remainder of the agenda, as presented by Mr. Turner.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

Mr. Litton left the meeting.

**F. CONSIDERATION OF THE FOLLOWING ADMINISTRATIVE SUBSTANTIAL ACCORD DETERMINATION:**

<b><u>CASE AND DISTRICT</u></b>	<b><u>APPLICANT</u></b>	<b><u>REQUEST</u></b>	<b><u>PROJECT NAME</u></b>
06PD0297 Bermuda	Chesterfield County Parks & Recreation	Substantial Accord Determination	Harrowgate Park Expansion

On motion of Mr. Wilson, seconded by Mr. Gecker, the Commission confirmed the decision of the Director of Planning that the proposed public facility (Harrowgate Park Expansion) was consistent with the adopted Comprehensive Plan.

AYES: Messrs. Wilson, Gecker and Bass.

ABSENT: Messrs. Litton and Gulley.

**G. PROPOSED UPPER SWIFT CREEK PLAN AMENDMENT.**

At staff's request, it was the consensus of the Commission to defer the proposed Upper Swift Creek Plan Amendment to the May 16, 2006, Planning Commission Work Session.

Mr. Litton returned to the meeting.

**H. PROPOSED NORTHERN COURTHOUSE ROAD PLAN AMENDMENT.**

At staff's request, it was the consensus of the Commission to defer the proposed Northern Courthouse Road Plan Amendment to the April 18, 2006, Planning Commission Work Session.

**I. PROPOSED CODE AMENDMENT RELATIVE TO ZONING CERTIFICATE FEES.**

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission set the date of, and requested staff advertise, April 18, 2006, at 7:00 p. m., for a public hearing to consider a Code Amendment relative to Subdivision and Zoning Ordinance Fees for Minor Written Administrative Services.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

**J. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Gecker, seconded by Mr. Litton, that the Commission adjourned at approximately 1:23 p. m., with the Commission agreeing to reconvene in the Public Meeting Room at 3:00 p. m. for the Afternoon Session.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

**3:00 P. M. AFTERNOON SESSION**

Mr. Wilson, Chairman, called the Afternoon Session to order at approximately 3:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building.

**A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

**B. APPROVAL OF PLANNING COMMISSION MINUTES.**

**♦ FEBRUARY 21, 2006, PLANNING COMMISSION MEETING MINUTES.**

Mr. Turner stated that the first order of business would be consideration of the February 21, 2006, Planning Commission meeting minutes.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved to approve the February 21, 2006, Planning Commission meeting minutes, as written.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

♦ **AMENDMENT OF DECEMBER 15, 2005, PLANNING COMMISSION MEETING MINUTES.**

Mr. Turner stated that the next order of business was consideration of an amendment to the December 15, 2005, Planning Commission meeting minutes.

On motion of Mr. Gecker, seconded by Mr. Bass, the Commission resolved to approve the December 15, 2005, Planning Commission meeting minutes, with the following correction:

**Page 4, Paragraph 9:**

"On motion of Mr. Wilson, seconded by Mr. Bass, the Commission established a Planning Commission By-Laws Committee and appointed Messrs. ~~Wilson~~ **Gulley** and Gecker to serve on the Committee, with the Committee supported by staff consisting of, but not limited to, members of the Planning Department and County Attorney's Office."

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

**C. CONSIDERATION OF THE FOLLOWING REQUESTS:**

♦ **CASES WHERE THE APPLICANT ACCEPTS STAFF'S RECOMMENDATION AND THERE WAS NO OPPOSITION PRESENT.**

**06PR0252:** In Midlothian Magisterial District, **RICHMOND GOODWILL INDUSTRIES INC.** requested Planning Commission approval of the conceptual landscaping plan and a reduction to the size of parking spaces, per zoning Case 85SN064. This development is commonly known as **GOODWILL INDUSTRIES-ALVERSER DRIVE**. This request lies in a Community Business (C-3) District on a 2.06 acre parcel fronting approximately 175 feet on the southeast line of Alverser Drive and better known as 1211 Alverser Drive. Tax ID 739-709-2053 (Sheet 6).

Mr. Derrick Johnson, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved that approval of the conceptual landscaping plan and a reduction of the size of parking spaces from ten (10) feet by twenty (20) feet to parking spaces that meet current standards for Case 06PR0252, Richmond Goodwill Industries Inc. (Goodwill Industries-Alverser Drive), shall be and it thereby was granted.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

**06PR0307:** In Midlothian Magisterial District, **VILLAGE MILL LAND INVESTORS LLC** requested approval for architecture, as required by Condition 3 of zoning Case 83S141. Specifically, this request includes a convenience store and a multi-tenant retail building that are located adjacent to Midlothian

Turnpike. This development is commonly known as **MIDLOTHIAN VILLAGE SQUARE**. This request lies in a Community Business (C-3) District on a 5.6 acre parcel fronting approximately 385 feet on the south line of Midlothian Turnpike. Tax ID 727-708-4208 (Sheet 5).

Mr. Read Goode, Jr., the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved that approval of architecture, as required by Condition 3 of zoning Case 83S141, for Case 06PR0307, Village Mill Land Investors LLC (Midlothian Village Square), shall be and it thereby was granted, subject to the following condition and review comment:

#### CONDITION

The building permit for the convenience store shall address the following review comment. (P)

#### REVIEW COMMENT

The colored striping on the convenience store door overhang is treated as signage. All building and freestanding signage shall meet the requirements of the zoning case for total area of signage allowed.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

**06PS0264:\*** In Midlothian Magisterial District, **MARCHETTI PROPERTIES** requested amendment of the architectural treatment of buildings, as identified in Condition 3 of Case 96PS0169. This development is commonly known as **STONEHENGE VILLAGE**. This request lies in Corporate Office (O-2) and Community Business (C-3) Districts on three (3) parcels fronting approximately 885 feet on the south line of Midlothian Turnpike, also fronting approximately 1,400 feet on the north line of Farnham Drive. Tax IDs 735-707-6669 and 9536 and 736-707-8355 (Sheet 6).

Mr. Bobby Marchetti, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved that approval to amend the architectural treatment of buildings, as identified in Condition 3 of Case 96PS0169, for Case 06PS0264, Marchetti Property (Stonehenge Village) shall be and it thereby was granted, subject to the following condition:

#### CONDITION

The architectural treatment of buildings in the Community Business (C-3) tract shall be a neo-classical style as generally depicted in the elevations titled "Stonehenge Village Center,

Chesterfield, Virginia" prepared by Freeman Morgan Architects. The following materials and colors shall be used:

Exterior walls visible to public rights of way and residentially zoned properties:

Brick, EIFS (i.e.-Dryvit), split-face concrete masonry units no higher than four (4) feet above finished grade on any facade, and fiberglass and/or brick columns

(NOTE: This requires that the back of raised parapet walls be covered in EIFS to match the color of EIFS used on the front of buildings.)

Other exterior walls:

Split-face concrete masonry units, stained or integrally colored to match the color of the brick on the exterior walls visible to the public rights of way and residentially zoned property.

Sloped roofs and awnings:

Any sloped roof incorporated into the design shall be a standing seam metal roof and/or slate or simulated slate materials. Awnings shall be an opaque material with either a maroon or green color as depicted on the elevations.

(NOTE: Conditions of zoning approval for Case 95SN0186 requires the following: (a) all buildings within the C-3 tract, including buildings on outparcels, to be similar or complimentary in architectural style and materials; (b) the design of buildings in the O-2 tracts to be architecturally compatible with the architectural design standards of the C-3 tract; and (c) the elevations of the rear walls of buildings in the C-3 and O-2 tracts visible from Farnham Drive to be built with architectural elements consistent with the overall treatment of these tracts.)

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

**06PW0280:\*** In Clover Hill Magisterial District, **WILLIAM P. SOWERS** requested modification of Zoning Ordinance Section 19-585.2(a) Route 360 Corridor East: Rural Transition. Specifically, the applicant requests relief from the requirement that no visible flat or shed roofs shall be permitted. This project is commonly known as **POCOSHOCK COMMONS**. This request lies in a Light Industrial (I-1) District on a 2.6 acre parcel fronting approximately 250 feet on the south line of Pocoshock Way, also fronting approximately 485 feet on the east line of Pocoshock Boulevard. Tax ID 763-694-2644 (Sheet 11).

Ms. Kristen Keatley, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Bass, seconded by Mr. Gecker, the Commission found Case 06PW0280, William P. Sowers (Pocoshock Commons), substantially complied with the five (5) factors of Section 19-19 of the County Code and resolved to recommend approval of a development standards waiver to Section 19-



585.2(a), Route 360 Corridor East: Rural Transition, of the Zoning Ordinance regarding no visible flat or shed roofs.

AYES: Messrs. Wilson, Gecker, Gulley, Litton and Bass.  
ABSENT: Mr. Gulley.

**D. FIELD TRIP AND DINNER SELECTIONS.**

♦ **FIELD TRIP SITE SELECTION.**

The Commission agreed to forego their Field Trip Agenda to visit requests sites.

♦ **DINNER LOCATION SELECTION.**

On motion of Mr. Litton, seconded by Mr. Gecker, the Commission resolved to meet for dinner at O'Charley's Restaurant in Chester.

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

**E. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Litton, seconded by Mr. Gecker, that the Commission adjourned the Afternoon Session at approximately 3:08 p. m., agreeing to meet at O'Charley's Restaurant at 5:00 p. m. for dinner.

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

During dinner, there was discussion pertaining to various rezoning and Conditional Use request sites.

**7:00 P. M. EVENING SESSION**

At approximately 7:00 p. m., Mr. Wilson, Chairman, called the Evening Session to order.

**A. INVOCATION.**

Mr. Litton presented the invocation.

**B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.**

Mr. Clay led the Pledge of Allegiance to the Flag.

**C. REVIEW MEETING PROCEDURES.**

Mr. Turner apprised the Commission of the agenda for the upcoming months, noting the April 18, 2006 agenda was comprised of eighteen (18) cases; the May 16, 2006 agenda was comprised of fifteen (15) cases; and the June 20, 2006, agenda was comprised of five (5) cases.

**D. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

**E. CITIZENS' INPUT ON UNSCHEDULED MATTERS.**

No one came forward to speak on unscheduled matters at this time.

**F. DEFERRED ITEM – CODE AMENDMENT.**

◆ **MULTIFAMILY AND TOWNHOUSE USES IN C-3, C-4 AND C-5 DISTRICTS.**

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An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Sections 19-159, 19-161 and 19-166 of the Zoning Ordinance relating to multifamily and townhouse uses permitted in the C-3 and C-4 Districts. The proposed amendments would: 1) remove residential multifamily and townhouses from the list of restricted uses in the C-3 District; 2) add residential multifamily and townhouses to the list of Conditional Uses in the C-3 District; and 3) remove references to residential multifamily and townhouses from the C-4 District list of restricted uses. This amendment would also affect properties in the C-5 District since Conditional Uses in the C-3 District are also listed as Conditional Uses in the C-5 District.

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Mr. Turner noted a public hearing on this Code Amendment was held and closed at a previous Planning Commission meeting and action deferred to this date.

Mr. Schlaudt presented an overview of the proposed Code Amendment and staff's recommendation; noted the proposal had been re-advertised/re-noticed for public hearing to ensure appropriate and timely notification to affected parties; and that staff had conducted additional background analysis on the proposed amendment and mapped properties affected by the amendment, which he outlined.

On motion of Mr. Gecker, seconded by Mr. Bass, the Commission resolved to recommend approval of the following Code Amendment:

*(1) That Sections 19-159 and 19-161 and 19-166 of the Code of the County of Chesterfield, 1997, as amended, be amended and re-enacted to read as follows:*

**Sec. 19-159. Uses permitted with certain restrictions.**

The following uses shall be permitted in the C-3 District subject to compliance with the following conditions and other applicable standards of this chapter. If the following restrictions cannot be met, these uses may be allowed by conditional use, subject to the provisions of section 19-13:

- (j) Residential multifamily and townhouses, provided that:
  - (1) No more than 30 percent of the gross acreage zoned C-3, C-4 or C-5 of any project may be used for R-MF or R-TH uses; provided further that the acreage to be used for R-MF or R-TH uses was zoned C-3, C-4 or C-5 after April 11, 1989 and prior to [the date of adoption of this ordinance]. Such uses shall be incorporated into an integrated schematic plan.
  - (2) No such residential uses shall be permitted until the following requirements are satisfied:
    - a. Construction has begun on a minimum of 50 percent of the gross site area devoted to nonresidential uses;
    - b. The minimum size for a project incorporating R-TH uses is 34 gross acres zoned C-3, C-4 or C-5, while the minimum size for a project incorporating R-MF uses is 67 gross acres zoned C-3, C-4 or C-5; and
    - c. Such uses comply with the requirements of the R-TH District or the R-MF Zoning District, except that densities for multifamily uses may be increased to 14 units per acre.
- (k) Prepared food and fruit and vegetable vendors, provided that:
  - (1) Only prepared food fruits and vegetables shall be sold;

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#### **Sec. 19-161. Conditional uses.**

The following uses may be allowed by conditional use in the C-3 District, subject to the provisions of section 19-13:

- (a) Any conditional use allowed in the C-2 District, unless previously permitted in this district.
- ~~(e)~~ (b) Computer controlled variable message electronic signs.
- (c) Multiple-family dwellings.
- (d) Townhouses.
- ~~(b)~~ (e) Subject to the following requirements, other uses which are not specifically enumerated in this chapter and which are of the same general character as the specifically enumerated uses allowed in this district. Before the planning commission and board of supervisors hear an application pursuant to this subsection, the director of planning shall consider, among other things, the following: the size and proposed configuration of the site; the size, height

and exterior architectural appearance of any proposed structure or structures; noise; light; glare; odors; dust; outdoor activities; traffic; parking; signage; and hours of operation. Based on these considerations, he shall determine that the proposed use's operating characteristics are substantially similar to, and its impact on neighboring properties no greater than, the operating characteristics and impacts of the specifically enumerated uses allowed in this district.

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**Sec. 19-166. Uses permitted with certain restrictions.**

The following uses shall be permitted in the C-4 District subject to compliance with the following conditions and other applicable standards of this chapter. If the following restrictions cannot be met, these uses may be allowed by conditional use, subject to the provisions of section 19-13:

- (a) Unless allowed by right in the C-4 District, any uses permitted with restrictions in the C-3 District, except that the density of multifamily projects may be increased to 18 units per gross acre; however, with provision of deck or underground parking, multifamily densities may be increased to 25 units per gross acre.

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(2) *That this ordinance become effective immediately upon adoption. (1925:70264.3)*

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

**G. CONSIDERATION OF THE FOLLOWING REQUESTS:**

◆ **REQUEST FOR WITHDRAWAL.**

**06SN0192:** In Midlothian Magisterial District, **PBH, LLC** withdrew rezoning and amendment of zoning district map from Agricultural (A) to General Business (C-5). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for planned transition area use. This request lies on 5.5 acres fronting approximately 410 feet on the south line of Midlothian Turnpike approximately 560 feet west of Murray Olds Drive. Tax IDs 737-708-9017 and 738-708-0700 (Sheet 6).

Mr. John Easter, the applicant's representative, confirmed withdrawal of the request.

There was no opposition to the withdrawal.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission acknowledged withdrawal of Case 06SN0192.

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

◆ **REQUESTS FOR DEFERRAL BY APPLICANTS.**

**05SN0285:** In Bermuda Magisterial District, **LIBERTY PROPERTY DEVELOPMENT CORP.** requested deferral to May 16, 2006, for consideration of amendment to Conditional Use Planned Development (Case 95SN0109) and amendment of zoning district map to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies in a Light Industrial (I-1) District on 15.2 acres fronting approximately 720 feet on the west line of Meadowville Road, also fronting approximately 1,330 feet on the north line of Kingston Avenue at its intersection with Rivers Bend Boulevard. Tax ID 818-655-2192 (Sheet 27).

Mr. Brennan Keene, the applicant's representative, requested deferral to the May 16, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to defer Case 05SN0285 to the May 16, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

**05SN0310:** In Dale Magisterial District, **HILL DEVELOPMENT ASSOCIATES, LTD** requested deferral to May 16, 2006, for consideration of rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to allow exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0-2.5 dwelling units per acre. This request lies on 73.8 acres fronting in two (2) places for approximately 300 feet on the south line of Kingsland Road approximately 200 feet west of Pine Glade Lane, also fronting approximately 270 feet on the north line of Route 288 approximately 2,700 feet east of Salem Church Road. Tax IDs 780-670-6772 and 780-671-1301, 2751 and 8852 (Sheet 18).

Mr. Brennan Keene, the applicant's representative, requested deferral to the May 16, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Litton, seconded by Mr. Gecker, the Commission resolved to defer Case 05SN0310 to the May 16, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

**06SN0144:** In Midlothian Magisterial District, **HENRY JONES FAMILY L.C.** requested deferral to April 18, 2006, for consideration of rezoning and amendment of zoning district map from Residential (R-9) and Light Industrial (I-1) to Residential Townhouse (R-TH) with Conditional Use Planned Development to allow exceptions to Ordinance requirements. Residential use of up to 8.00 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for village square, village shopping district and village fringe area uses. This request lies on 21.8 acres fronting approximately 600 feet on the west line of North Woolridge Road, also fronting approximately eighty (80) feet on the south line of Grove Hill Road. Tax ID 731-706-Part of 3947 (Sheet 6).

Mr. John Easter, the applicant's representative, requested deferral to the April 18, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

Mr. Gecker stated he did not feel the request could be finalized in thirty (30) days and inquired if the applicant would consider deferring the request to the May 16, 2006, public hearing.

Mr. Easter stated he was unable to request a sixty (60) day deferral.

Mr. Gecker indicated, in addition to the applicant's request for a thirty (30) day deferral, he would add an additional thirty (30) days on the Commission's motion.

The following motion was made at the applicant's and Mr. Gecker's requests.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved to defer Case 06SN0144 for thirty (30) days at the applicant's request and for thirty (30) days on the Commission's motion, for a total of sixty (60) days, to the May 16, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

**06SN0155:** In Midlothian Magisterial District, **CONTINENTAL 184 FUND LLC** requested deferral to April 18, 2006, for consideration of rezoning and amendment of zoning district map from Residential (R-7) and Agricultural (A) to Regional Business (C-4) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use and medium density residential use of 1.51 to 4.0 units per acre. This request lies on 70.1 acres fronting approximately 400 feet on the south line of Robious Road approximately 1,780 feet on the north line of Koger Center Boulevard and approximately 800 feet on the west line of Old Farm Road. Tax IDs 742-711-0925 and 6653; 742-712-4671, 9467 and 9735; 742-713-8076 and 9753; 743-712-1198; and 743-713-0527 (Sheet 6).

Mr. John Easter, the applicant's representative, requested deferral to the April 18, 2006, Planning Commission public hearing.

Mr. Gecker stated he did not feel a deferral for thirty (30) days was sufficient time to approach/meet with the community and inquired if the applicant would consider deferring the request to the May 16, 2006, public hearing.

Mr. Easter stated he was unable to request a sixty (60) day deferral due to contractual obligations.

Mr. Gecker indicated, in addition to the applicant's request for a thirty (30) day deferral, he would add an additional thirty (30) days on the Commission's motion.

Ms. Darlene Reynolds, an area resident, supported deferral of the request.

The following motion was made at the applicant's and Mr. Gecker's requests.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved to defer Case 06SN0155 for thirty (30) days at the applicant's request and for thirty (30) days on the Commission's motion, for a total of sixty (60) days, to the May 16, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

**06SN0194:** In Clover Hill Magisterial District, **BLUESTONE REAL ESTATE, LLC** requested deferral to June 20, 2006, for consideration of rezoning and amendment of zoning district map from Agricultural (A) and Corporate Office (O-2) to Multifamily Residential (R-MF) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 10.00 units per acre is permitted in a Multifamily Residential (R-MF) District. The Comprehensive Plan suggests the property is appropriate for mixed use corridor use. This request lies on 28.9 acres fronting approximately 1,220 feet on the north line of Hull Street Road at its intersection with Ladino Lane. Tax IDs 750-687-7530, 9465, 9741 and 9882; and 751-687-1519, 3263, 6434 and 6883 (Sheet 10).

Mr. John Easter, the applicant's representative, requested deferral to the June 20, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Bass, seconded by Mr. Gecker, the Commission resolved to defer Case 06SN0194 to the June 20, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

**06SN0196:** In Bermuda Magisterial District, **PRINCETON PROPERTIES, INC.** requested deferral to May 16, 2006, for consideration of rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-15) to Residential Townhouse (R-TH) with Conditional Use Planned Development of 38.0 acres; Agricultural (A) to Corporate Office (O-2) of 2.2 acres; Corporate Office (O-2) to Community Business (C-3) of 6.4 acres; and Corporate Office (O-2) to Multifamily Residential (R-MF) of 1.0 acre.

Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The density of such amendment for Corporate Office (O-2) and Community Business (C-3) uses will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for mixed use corridor and community mixed use uses. This request lies on 47.6 acres fronting approximately 440 feet in two (2) places on the south line of Iron Bridge Road, also fronting approximately 300 feet on the east line of Edenshire Road and fronting approximately 250 feet on the south line of Rivington Drive and located in the southeast quadrant of the intersection of these roads. Tax IDs 776-652-0051, 1462, 2477, 3293 and 7829; 777-652-3981 and Part of 6715; and 777-653-3211 (Sheet 25).

Mr. Will Homiller, the applicant's representative, requested deferral to the May 16, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Wilson, seconded by Mr. Gecker, the Commission resolved to defer Case 06SN0196 to the May 16, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT: Mr. Gulley.

◆ **REQUEST FOR DEFERRAL BY INDIVIDUAL PLANNING COMMISSIONER.**

**05SR0330:\*** In Matoaca Magisterial District, **JAMES F. THACKER** requested a Conditional Use and Conditional Use Planned Development and amendment of zoning district map to permit a bed and breakfast and special events business incidental to a dwelling unit and to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 42.4 acres and is known as 4701 and 4801 Woolridge Road. Tax IDs 720-681-Part of 0327 and 720-682-0474 and 3924 (Sheets 9 and 15).

Mr. Andy Scherzer, the applicant's representative, accepted deferral of the request by Mr. Bass to the April 18, 2006, Planning Commission public hearing, noting he anticipated being able to address/resolve the issues of concern within the thirty (30) day timeframe.

Mr. Wilson opened the discussion for public comment.

Ms. Brenda Stewart, a Matoaca District resident, requested the Commission consider imposing conditions to regulate all special events businesses which would allow enforcement staff to access the property during events, or as otherwise agreed upon, to ensure adherence to the conditions of zoning.

Ms. Laurie Newill, a resident of Riverbirch Trace, supported deferral of the request, noting area residents had not yet received a copy of the sound study that was to be conducted on the property and would like to have an opportunity to review the study and/or have their own professional experts evaluate the information to determine if the noise levels were within acceptable standards.



There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Scherzer indicated copies of the study would be mailed to area residents.

In response to questions from the Commission, Mr. Mincks addressed issues relative to enforcement and access to the property.

Mr. Bass referenced a letter from Mr. Anthony Giordano, President of the Brandermill Community Association Board, supporting the deferral and outlining concerns relative to the sound study not being available to area residents, the timeframe for which the use was granted being restricted, the hours of operation, noise levels and the use of the public wastewater system.

The following motion was made at Mr. Bass' request.

On motion of Mr. Bass, seconded by Mr. Gecker, the Commission, on their own motion, resolved to defer Case 05SR0330 to the April 18, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

◆ **REQUESTS WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION PRESENT.**

**06SN0197:** In Bermuda Magisterial District, **MICHAEL A. COLE** requested rezoning and amendment of zoning district map from Community Business (C-3) and Light Industrial (I-1) to General Business (C-5). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general commercial use and residential use of 2.51-4 units per acre. This request lies on 6.3 acres fronting approximately 120 feet on the west line of Jefferson Davis Highway approximately 430 feet south of Walmsley Boulevard. Tax IDs 789-692-Part of 4413 and 6959 (Sheet 12).

Mr. Michael Cole, the applicant, accepted staff's recommendation.

Mr. Wilson opened the discussion for public comment.

Mr. Floyd O'Brien, Jr., supported the request, noting he also wished to convey the support of Ms. Ree Hart, President of the Amphill Civic Association.

There being no one else to speak, Mr. Wilson closed the public comment.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 06SN0197 and acceptance of the following proffered condition:

**PROFFERED CONDITION**

Uses permitted shall be limited to those uses permitted by right or with restrictions in the General Business (C-5) District except the following uses shall not be permitted:

1. Travel trailer parks;
2. Manufactured home, modular home and travel trailer sales, service, repair and rental;
3. Motels, motor courts or tourist homes;
4. Tractor-trailer service stations; and,
5. Truck terminal

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
 ABSENT Mr. Gulley.

**06SN0205:** In Dale Magisterial District, **GOLF CONNECTION, LLC** requested amendment of Conditional Use (Case 88SN0148) and amendment of zoning district map relative to setbacks for outdoor recreational facilities. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1-5 acre lots, suited to R-88 zoning. This request lies in a Residential (R-25) District on 160.7 acres fronting in three (3) places on the north and south sides of Highland Glen Drive. Tax ID 764-644-7996 (Sheet 33).

Mr. Jeff Collins, the applicant's representative, accepted staff's recommendation, noting he was aware Mr. Jarred Smith had concerns and he was willing to defer the request for thirty (30) days if necessary.

Mr. Wilson opened the discussion for public comment.

Mr. Jarred Smith, an adjacent property owner, stated he had received notice of the request today, expressed concerns relative to the buffer reduction and light/noise intrusion and asked the Commission to defer the request for sixty (60) days to give him an opportunity to have his concerns addressed.

There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Collins stated he was agreeable to a sixty (60) day deferral.

The following motion was made at the applicant's request.

On motion of Mr. Litton, seconded by Mr. Gecker, the Commission resolved to defer Case 06SN0205 to the May 16, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
 ABSENT Mr. Gulley.

**06SN0141:\*** (Amended) In Clover Hill Magisterial District, **TBA DEVELOPMENT LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for medium density residential use of 1.51 to 4.0 units per acre. This request

lies on 26.9 acres lying at the northern termini of South Twilight Lane and Oxer Road. Tax IDs 757-696-Part of 7441 and 8070 and 758-696-Part of 0254 and Part of 2884 (Sheet 11).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 06SN0141 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Public water and wastewater shall be used. (U)
2. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property, to the county of Chesterfield prior to the issuance of building permit:
  - A. \$15,600.00 per dwelling unit, if paid prior to July 1, 2006; or
  - B. The amount approved by the Board of Supervisors not to exceed \$15,600.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
  - C. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law. (B&M)
3. The maximum density of this development shall not exceed forty five (45) lots. (P)
4. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
5. All dwelling units shall have a minimum gross floor area of 1800 square feet. (BI&P)
6. All exposed portions of the foundation of each new dwelling unit shall be faced with brick or stone veneer. Exposed piers supporting front porches shall be faced with brick or stone veneer. (BI&P)
7. Prior to tentative subdivision approval, the developer shall submit certification to the Planning Department that all adjacent property owners have been notified in writing of the submission of the tentative plan to the County for review and approval. The tentative subdivision application shall not be considered complete until such certification has been submitted to the Planning Department. The fifteen (15) day period for referral to the Planning Commission shall not commence until such certification has been provided. (P)

8. Until such time as the project is fully developed and all initial occupancy permits have been granted, all exterior construction activity shall be limited to between the hours of 6:00 am and 9:00 pm. This condition shall not preclude interior construction activity once the structure is enclosed by walls and a roof. (P)
9. There shall be no vehicular access to North Twilight Lane. (P&T)
10. The developer shall design and construct the subdivision such that no water from impervious surfaces shall sheet flow onto Three Pines subdivision to the west or Foxberry subdivision to the south. (EE)
11. The following shall be recorded as deed restrictions in conjunction with the recordation of any subdivision plat:
  - A. No lot shall be used except for residential purposes.
  - B. No initial improvements including, without limitation, a dwelling, accessory structure, or addition such as a carport, driveway, porch, sidewalk, roof, lamp post, fence, garage, or other outbuildings, landscaping, antenna, or similar device, or change in the exterior color or siding material shall be made, erected, altered, or replaced unless two sets of detailed plans and specifications, including a site plan locating all such improvements and describing exterior finishes (material and color, including roof) have first been submitted to and approved by Declarant in writing.
  - C. Declarant reserves unto itself the right and privilege to install gas lines, water lines, sewer lines, storm sewers, electric lines, telephone and telegraph poles, lines and wires, and other utilities and appurtenances in the street and roads of the Subdivision and along the property lines of the Lots, and to grant to other persons, companies, or corporations any or all of such rights and privileges, but the reservation of such rights shall not relieve any grantee from the obligation to pay the usual and customary charges made with respect to his Lot for the installation and/or connection of utilities.
  - D. In considering requests for approval of fences and hedges, the following general guidelines will be applied:
    - i. No fence shall be permitted in the front yard of any Lot (between the building setback line and street line).
    - ii. No fence or hedge shall generally be permitted higher than 48 inches of any Lot.
    - iii. No chain link fences or fences of other materials similar in nature or appearance will be permitted on any Lot.
  - E. Declarant may in its absolute discretion waive or modify these guidelines and consider such other criteria as it shall deem appropriate.

- F. No sign of any kind shall be displayed to public view on any Lot, unless first approved in writing by Declarant, except on sign of not more than four (4) square feet advertising the property for sale or rent, or signs used by a the initial construction and sales period.
- G. No use shall be made of any Lot, or any part thereof which constitutes a nuisance or which would adversely affect the value or marketability of other Lots, No stables, swine, sheep, cows, or the like shall be permitted on any Lot. All trash, garbage and/or rubbish shall be kept in sanitary containers located so as not to be visible from a public street except as necessary for limited times in connection with pickup and removal by disposal services and except during periods of construction.
- H. No driveway, entranceway, or sidewalk shall be constructed on any Lot unless approved as provided in paragraph B.
- I. No above ground swimming pools shall be permitted. No in-ground swimming pools shall be located nearer to any street line than the rear building line of the dwelling.
- J. No structure of a temporary character or any trailer, tent, barn, or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.
- K. No trees over six (6) inches in diameter shall be removed from any Lot without the prior written approval of Declarant.
- L. No portable air conditions units will be place in any window of a dwelling or other building if visible from a public street.
- M. No exterior television antenna (including "dish" type) or other antennas shall be permitted to extend over five (5) feet above the roofline of any building, except as permitted by law.
- N. No motor vehicle will be parked on or adjacent to any Lot which does not have a current state license, state inspection sticker, and county license, and no commercial vehicle, such as a school bus, delivery truck, or other large vehicle or equipment will be parked on a street in the subdivision or on any Lot. No recreational vehicle (mobile home, camping trailer, and other similar vehicles) shall be parked on a street in the Subdivision or on a Lot except in a driveway shown on plans that have been approved as provided in Paragraph B.
- O. Any one or more of the covenants or restrictions imposed by paragraphs A through N above may be waived or modified, in whole or in part, as to the entire Subdivision or and part thereof, by written instrument signed by Declarant and recorded where these restrictions are recorded.

- P. In addition to the foregoing conditions and restrictions, the Lots shall be subject to easements for drainage and utilities, including power and telephone lines, as shown on the plat, and any other easements of record at the time of conveyance of any Lot.
- Q. Invalidation of any one of the provisions of these restrictions by judgment, court order, or otherwise shall in no way affect any of the other provisions which shall remain in full force and effect.
- R. Declarant reserves the right to assign and transfer to any person, persons, or entity some or all of its rights provided herein and in such event such transferee shall have and may exercise all such rights to the same extent as if he, they, or it were the Declarant.
- S. Declarant shall have the full right and privilege to enforce all restrictions and conditions contained herein by appropriate proceeding at law for damages and/or in equity for appropriate injunctive relief and restraining orders to prevent violations, or to require violations to be corrected, together with damages sustained including, without limitation, attorneys' fees and costs. In addition, any Owner shall have, after seventy-five percent (75%) or more of the Lots have been conveyed to purchasers other than builders, the right to enforce compliance with these restrictions as provided in this paragraph.
- T. These restrictions shall run with the land and be binding upon any and all succeeding owners, their personal representatives, estates, heirs, devisees, assigns, or successors in interest or any other parties having or taking an interest in or to the Property, or any part thereof, and shall automatically be extended for successive periods of ten (10) years unless otherwise provided in a written instrument executed by the owners of a majority of the Lots in the Subdivision unless a release, waiver, or breach of any one or more of the restrictions contained herein or any part thereof is required or agreed to by a court or governmental authority having jurisdiction over the Property.
- U. The Declarant hereby reserves the right, at Declarant's sole discretion, to add the Additional Land to the property subject to the Declaration of Protective Covenants.  
(P)

AYES: Messrs. Wilson, Gecker, Gulley, Litton and Bass.  
ABSENT Mr. Gulley.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved to recommend approval of a waiver to the Residential Subdivision Connectivity Policy for Case 06SN0141.

AYES: Messrs. Wilson, Gecker, Gulley, Litton and Bass.  
ABSENT Mr. Gulley.

**06SN0157:\*** In Matoaca Magisterial District, **M&K DEVELOPERS, LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.2 units per acre or less. This request lies on 10.0 acres fronting approximately 710 feet on the west line of North Spring Run Road approximately 360 feet north of Triple Crown Drive. Tax IDs 726-667-5732 and 8727 (Sheet 15).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation, including the Addendum.

Mr. Wilson opened the discussion for public comment.

Mr. David Zook, an adjacent property owner, expressed concerns relative to density, lot locations and the impact the development would have on his ability to access his property.

There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Scherzer stated every effort had been made to provide a tree preservation area and to ameliorate the impact of the development on adjacent properties.

On motion of Mr. Bass, seconded by Mr. Gecker, the Commission resolved to recommend approval of Case 06SN0157, subject to the following condition and acceptance of the following proffered conditions:

#### CONDITION

The Textual Statement dated January 12, 2006 shall be considered the Master Plan. (P)

#### PROFFERED CONDITIONS

1. Public water and wastewater shall be used. (U)
2. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property, to the county of Chesterfield prior to the issuance of a building permit:
  - A. \$15,600.00 per dwelling unit, if paid prior to July 1, 2006; or
  - B. The amount approved by the Board of Supervisors not to exceed \$15,600.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
  - C. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law. (B&M)
3. The maximum density of this development shall not exceed twenty- two (22) lots. (P)

4. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
5. Direct vehicular access from the property to Spring Run Road shall be limited to one (1) public road. (T)
6. Within sixty (60) days of approval of this request, forty-five (45) feet of right-of-way along the west side of Spring Run Road, measured from the centerline of that part of the roadway immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
7. In conjunction with the development of the initial section, the developer shall:
  - A. Construct additional pavement along Spring Run Road at the public road intersection to provide a right and left turn lanes, based on Transportation Department standards.
  - B. Widen/improve the west side of Spring Run Road to an eleven (11) foot wide travel lane, measured from the existing centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, and overlaying the full width of the road with one and a half (1.5) inch of compacted bituminous asphalt concrete, with any modifications approved by the Transportation Department, for the entire property frontage, and
  - C. Dedicate free and unrestricted to and for the benefit of Chesterfield County, any additional right-of-way (or easements) required for these improvements. In the event the developer is unable to acquire any "off-site" right-of-way that is necessary for any of these improvements, the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the road improvements within available right-of-way, as determined by the Transportation Department. (T)
8. Manufactured homes shall not be permitted. (P)
9. Sidewalks. Sidewalks shall be provided that facilitate pedestrian access within the development. Generally, sidewalks shall be located on both sides of public roads. (P)
10. Driveways. All private driveways shall be hardscaped. The exact treatment shall be approved at the time of plan review. (P)
11. Street Trees. Street trees shall be provided along both sides of all public roads within the development. (P)



12. Focal Point. A minimum of 0.75 acres of open space shall be provided within the development to provide a "focal point". Part of the focal point area shall be "hardscaped" and have benches and other amenities that accommodate and facilitate gatherings. A portion of the focal point may include an area devoted to best management/storm water facilities. The focal point shall be developed concurrent with the phase of development that the focal point is intended to serve. (P)
13. Garages. Front loaded garages shall be located no closer to the street than the front façade of the dwelling unit. (P)
14. Buffers. All required buffers shall be located within recorded open space. (P)
15. The minimum gross floor area for one story dwelling units shall be 1700 square feet and dwelling units with more than one story shall have a minimum gross floor area of 1800 square feet. (BI&P)
16. All exposed portions of the foundation of each new dwelling unit shall be faced with brick or stone veneer. Exposed piers supporting front porches shall be faced with brick or stone veneer. (BI&P)
17. The following shall be recorded as deed restrictions in conjunction with the recordation of any subdivision plat:
  - A. No lot shall be used except for residential purposes. No business uses (profit or non-profit) including home occupations shall be conducted on the premises. Home occupations may be permitted if approved by the Homeowners' Association. (P)
  - B. No improvements including, without limitation, a dwelling, accessory structure, or addition such as a carport, driveway, porch, sidewalk, roof, lamp post, fence, garage, or other outbuildings, landscaping, antenna, or similar device, or change in the exterior color or siding material shall be made, erected, altered, or replaced unless two sets of detailed plans and specifications, including a site plan locating all such improvements and describing exterior finishes (material and color, including roof) have first been submitted to and approved by Declarant in writing.
  - C. Declarant reserves unto itself the right and privilege to install gas lines, water lines, sewer lines, storm sewers, electric lines, telephone and telegraph poles, lines and wires, and other utilities and appurtenances in the street and roads of the Subdivision and along the property lines of the Lots, and to grant to other persons, companies, or corporations any or all of such rights and privileges, but the reservation of such rights shall not relieve any grantee from the obligation to pay the usual and customary charges made with respect to his Lot for the installation and/or connection of utilities.
  - D. In considering requests for approval of fences and hedges, the following general guidelines will be applied:

- E. No fence shall be permitted in the front yard of any Lot (between the building setback line and street line).
- F. No fence or hedge shall generally be permitted higher than 48 inches of any Lot.
- G. No chain link fences or fences of other materials similar in nature or appearance will be permitted on any Lot.
- H. Declarant may in its absolute discretion waive or modify these guidelines and consider such other criteria as it shall deem appropriate.
- I. No sign of any kind shall be displayed to public view on any Lot, unless first approved in writing by Declarant, except on sign of not more than four (4) square feet advertising the property for sale or rent, or signs used by a the initial construction and sales period.
- J. No use shall be made of any Lot, or any part thereof which constitutes a nuisance or which would adversely affect the value or marketability of other Lots, No stables, swine, sheep, cows, or the like shall be permitted on any Lot. All trash, garbage and/or rubbish shall be kept in sanitary containers located so as not to be visible from a public street except as necessary for limited times in connection with pickup and removal by disposal services and except during periods of construction.
- K. No driveway, entranceway, or sidewalk shall be constructed on any Lot unless approved as provided in paragraph B.
- L. No swimming pool shall be located nearer to any street line than the rear building line of the dwelling.
- M. No structure of a temporary character or any trailer, tent, barn, or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.
- N. No trees over six (6) inches in diameter shall be removed from any Lot without the prior written approval of Declarant.
- O. No portable air conditions units will be place in any window of a dwelling or other building if visible from a public street.
- P. Family daycare homes (providing care to more than five (5) children) and group care facilities shall not be permitted. (P)
- Q. Except as otherwise provided by applicable law, no exterior television antenna (including "dish" type) or other antennas shall be permitted to extend over five (5) feet above the roofline of any building.

- R. No motor vehicle will be parked on or adjacent to any Lot which does not have a current state license, state inspection sticker, and county license, and no commercial vehicle, such as a school bus, delivery truck, or other large vehicle or equipment will be parked on a street in the subdivision or on any Lot. No recreational vehicle (mobile home, camping trailer, and other similar vehicles) shall be parked on a street in the Subdivision or on a Lot except in a driveway shown on plans that have been approved as provided in Paragraph B.
- S. Any one or more of the covenants or restrictions imposed by paragraphs A through R above may be waived or modified, in whole or in part, as to the entire Subdivision or and part thereof, by written instrument signed by Declarant and recorded where these restrictions are recorded.
- T. In addition to the foregoing conditions and restrictions, the Lots shall be subject to easements for drainage and utilities, including power and telephone lines, as shown on the plat, and any other easements of record at the time of conveyance of any Lot.
- U. Invalidation of any one of the provisions of these restrictions by judgment, court order, or otherwise shall in no way affect any of the other provisions which shall remain in full force and effect.
- V. Declarant reserves the right to assign and transfer to any person, persons, or entity some or all of its rights provided herein and in such event such transferee shall have and may exercise all such rights to the same extent as if he, they, or it were the Declarant.
- W. Declarant shall have the full right and privilege to enforce all restrictions and conditions contained herein by appropriate proceeding at law for damages and/or in equity for appropriate injunctive relief and restraining orders to prevent violations, or to require violations to be corrected, together with damages sustained including, without limitation, attorneys' fees and costs. In addition, any Owner shall have, after seventy-five percent (75%) or more of the Lots have been conveyed to purchasers other than builders, the right to enforce compliance with these restrictions as provided in this paragraph.
- X. These restrictions shall run with the land and be binding upon any and all succeeding owners, their personal representatives, estates, heirs, devisees, assigns, or successors in interest or any other parties having or taking an interest in or to the Property, or any part thereof, and shall automatically be extended for successive periods of ten (10) years unless otherwise provided in a written instrument executed by the owners of a majority of the Lots in the Subdivision unless a release, waiver, or breach of any one or more of the restrictions contained herein or any part thereof is required or agreed to by a court or governmental authority having jurisdiction over the Property.

- Y. Declarant, as owner of all of the Property subjected to the Declaration, shall, at such time as it deems appropriate, cause to be incorporated under the laws of the Commonwealth of Virginia a non profit corporation to be named "Blank Homeowner's Association" or a similar name (the "Association").
- Z. All Owners shall be members ("Members") of the Association and shall be entitled to one (1) vote, per each Lot owned by them (provided, however, that if a Lot is owned by more than one owner, the owners of such Lot shall be entitled to only one vote between them), on all matters which are required to be decided by a vote of the Members of the Association.
- AA. The Members shall annually elect a five (5) member board of directors (the "Board of Directors") which shall be responsible for operating the Association, provided, however, that until such time as eighty-five percent (85%) of the Lots are owned by persons other than builders of the Declarant, the Board of Directors shall consist of five (5) directors all of whom shall be selected by the Declarant.
- BB. Each year the Board of Directors shall prepare an annual budget (the "Budget") containing an itemization of the expenses, which it anticipates, the Association will incur during the upcoming year to fulfill its responsibilities hereunder. The Budget shall be sent to each owner together with a notice of assessment (the "Annual Assessment") for the owner's pro rata share of the budget, which shall be computed by dividing the total Budget by the number of Lots. Upon receipt of the Annual Assessment, each Owner shall be required to make payment of the same in the manner designated by the Board of Directors.
- CC. In addition to any Annual Assessments, the Association may levy in any assessment year a special assessment (the "Special Assessment") applicable to that year only for the purpose of defraying in whole or in part the cost of any reconstruction, unexpected repair, or replacement of a capital improvement, including the necessary fixtures and personal property related thereto, provided that any such Special Assessment shall have the consent of the Owners of two-thirds (2/3) of the lots.
- DD. Any Annual Assessment or Special Assessment (the "Assessments") which is not paid by an Owner within such time as shall be determined by the Board of Directors shall bear interest at a rate per annum determined by the Board of Directors from such date until paid and shall constitute a lien upon the Lot owned by such Member. Such lien shall have priority over all other liens including, without limitation, mortgages, deeds of trust, or any other lien hereafter placed upon any Lot, except a first mortgage of deed of trust securing a loan by a bona fide institutional lender to which such lien shall be subordinate. No Owner may waive or escape liability for the assessments hereunder for any reason. No sale or other transfer shall relieve any owner from liability for any Assessments due nor any Lot from the lien of any Assessments. The amount of any such lien may be enforced by suit or otherwise at the election of the Association and the Owner shall be required to reimburse the Association for all attorneys' fees and expenses incurred.

in so doing, the amount of which shall also constitute a lien on the Lot as herein provided. Notwithstanding the above, a party who acquires title to a Lot by virtue of the foreclosure of lien secured by a first mortgage of deed of trust to which this lien is subordinate or by a deed or assignment in lieu of foreclosure any liability of lien chargeable to such Lot on account of any period of time prior to such acquisition of title. Said acquiring party shall, however, be bound by the provisions of this Declaration including, without limitation, Assessments effective after said acquisition of title.

EE. The Declarant hereby reserves the right, at Declarant's sole discretion, to add the Additional Land to the property subject to the Declaration of Protective Covenants. (P)

18. Open Space. There shall be a minimum of three (3) acres of recorded open space. (P)

19. A fifteen (15) foot tree preservation strip, exclusive of required yards, shall be maintained along the boundary of the subject property adjacent to Tax ID's 726-666-3362 and 9163, and 727-667-0200. Utility easements shall be permitted to cross this strip in a perpendicular fashion. Any healthy trees that are eight (8) inches in caliper or greater shall be retained within this tree preservation strip except where removal is necessary to accommodate the improvements permitted by the preceding sentence. Any open areas of 100 square feet or greater shall either be supplemented with plantings in accordance with perimeter landscape "G" requirements of the Ordinance or shall be furnished with a minimum six (6) foot high privacy fence. A plan depicting this planting/fencing requirement shall be reviewed and approved by the Planning Department at time of Tentative Subdivision plan review. (P)

20. An entrance feature shall be designed and installed in such a manner as to discourage recreational vehicular access from the development to the existing utility easement that runs parallel to Spring Run Road. The proposed feature shall be reviewed and approved at the time of tentative subdivision plan review and shall be installed prior to subdivision plat recordation. (P)

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT Mr. Gulley.

**06SN0161:\*** In Bermuda Magisterial District, **BARTHURST HOMES, INC.** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51-4.0 units per acre. This request lies on 7.2 acres fronting approximately 650 feet on the south line of Old Happy Hill Road, also fronting approximately 230 feet on the east line of Branders Bridge Road and located in the southeast quadrant of the intersection of these roads. Tax ID 785-646-8847 (Sheet 34).

Mr. Larry Barthurst, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Gecker, the Commission resolved to recommend approval of Case 06SN0161 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of a building permit for infrastructure improvements within the service district for the property:
  - A) \$15,600.00 per dwelling unit, if paid prior to July 1, 2006; or
  - B) The amount approved by the Board of Supervisors not to exceed \$15,600.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2005, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
  - C) Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law. (B&M)
2. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. In conjunction with the recordation of the initial subdivision plat, forty-five (45) feet of right of way on the south side of Old Happy Hill Road and forty-five (45) feet of right of way on the east side of Branders Bridge Road, measured from the centerlines of those roads, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
4. There shall be no direct access from the property to Branders Bridge Road. Direct access from the property to Old Happy Hill Road shall be limited to one (1) public road. The exact location of this public road shall be approved by the Transportation Department. (T)
5. In conjunction with the initial section, the developer shall be responsible for the following improvements:
  - i) Construction of additional pavement along Old Happy Hill Road at the public road intersection to provide left and right turn lanes based on Transportation Department standards.
  - ii) Widening/improving the south side of Old Happy Hill Road and the east side of Branders Bridge Road to an eleven (11) foot wide travel lane, measured from the existing centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, and overlaying the full width of the road with one and a half (1.5) inch of compacted bituminous asphalt concrete, with

any modifications approved by the Transportation Department, for the entire property frontage; and,

iii) Dedication, free and unrestricted, to and for the benefit of Chesterfield County, of any additional right-of-way (or easements) required for these improvements. (T)

6. All dwelling units shall have a minimum gross floor area of 2500 square feet. (P)
7. Prior to tentative subdivision approval, the developer shall submit certification to the Planning department that all adjacent property owners have been notified in writing of the submission of the tentative plan to the county for review and approval. The tentative subdivision application shall not be considered complete until such certification has been submitted to the planning Department. The fifteen (15) day period for referral to the planning Commission shall not commence until such certification has been provided. (P)
8. At a minimum the following restrictive covenants shall be recorded in conjunction with recordation of any subdivision plat:

Restrictions, applicable to Dorset Downs.

Whereas, Dorset Downs (Barthurst Homes, Inc.), is the owner of certain lands located within a community known as Dorset Downs in Chesterfield County, Virginia.

Whereas, the developer wishes to declare certain restrictive covenants affecting certain lands in Dorset Downs.

The Developer does hereby declare that the covenants contained herein shall be covenants running with the land and shall apply to the lands described as Dorset Downs. The Developer reserves in each instant the right to add additional restrictive covenants in respect to lands to be conveyed in the future within the properties, or to limit therein the application of this Declaration.

Dorset Downs when used herein shall refer to the lands in Chesterfield County, Virginia, which are shown as a part of Dorset Downs on the Developer's Master Plan as revised from time to time.

Whenever used herein, the term "Developer" or "the Developer" shall refer to Dorset Downs and any agent or agents appointed by Dorset Downs its successors and assigns, to act on its behalf for the purpose of administering or enforcing, in whole or in part, the rights reserved unto the developer in this Declaration.

The terms "Property" and "Properties:" when used herein shall refer to any tract of land or subdivision thereof in Dorset Downs, which has been subjected to the provisions of this Declaration, or any supplemental Declaration.

The term "Master Plan" when used in this Declaration shall mean and refer to the drawing, which represents the conceptual concept of the future development Dorset Downs. Since

the concept of the future development of Dorset Downs is subject to continuing revision and change by the Developer, present and future references to the "Master Plan" Shall be references to the latest revision thereof.

The covenants and restrictions below will be referred to as the General Property Covenants.

**Part I**  
**Covenants, Restrictions and affirmative obligations**  
**Applicable to all properties in Dorset Downs**

The primary purpose of these covenants, restrictions and affirmative obligations (Covenants) and the foremost consideration in the origin of same has been the creation of a community, which is aesthetically pleasing and functionally convenient. The establishment if certain objective standards relating to design, size and location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of property and of technological advances and environmental values. For this reason such standards are not established by these Covenants. However, in order to implement the purposes of these covenants, the Developer may establish and amend from time to time objective standards and guidelines, including, but not limited to, building guidelines, uniform sign regulations, uniform mailbox as such terms are defined hereinafter, which shall be in addition to and more restrictive than these Covenants and which shall be bind on all property owners within Dorset Downs.

1. a. Building Approvals – no building, fence or other structure shall be erected, placed or altered on any property in Dorset Downs until the proposed building plans, specifications, exterior color or finish, plot plan (showing the proposed location of such building or structure drivers, and parking areas, and construction schedule shall have been approved by the developer. In addition the developer may, require prior written approval of a landscape plan. The developer further reserves the right to promulgate and amend from time to time architectural standards and construction specifications (herein after referred to as the "Building Guidelines") for specific neighborhoods and areas or for all properties within Dorset Downs, and such Building Guidelines Shall establish, define and expressly limit those standards and specifications which will be approved in said neighborhoods and architectural style, exterior color or finish, roofing material design, and construction technique.

No alteration in the exterior appearance without like prior approval by the developer. One (1) copy of all plans and related data shall be furnished to the developer for its records. In the event approval of such plans is neither granted nor denied within thirty days following receipt by the developer to written demand for approval, the provisions of these paragraph shall be then be waived.

- b. In order to assure that the buildings, fences and other structures will be located and staggered so that the maximum view, privacy, sunlight, and breeze will be available to each building or structures will be located and staggered so that the



maximum view, privacy, sunlight , and breeze will be available to and to assure that structures will be located with regard to the topography of each property, taking into consideration the location of large trees and other aesthetic and environmental considerations, the developer reserves the right to approve the precise site and location of any building, fence or structure on any property in Dorset Downs.

Such location shall be determined only after reasonable opportunity is afforded the property owner to recommend a specific site. The provisions of this paragraph shall in no way be construed as a guarantee that the view, privacy, sunlight, or breeze available to a building or structure on a given property shall not be affected by the location of a building or structure on an adjacent property.

- c. Tree Removal. No trees measuring six inches or more in diameter at a point two feet above ground level may be removed without the prior approval of the Developer.

No vegetation shall be removed within ten (10) feet of back property line of any lot unless that property owner erects either an evergreen screen, the species and spacing of which shall be approved by the developer, or a vinyl fence at least six (6) feet in height.

- d. Signs. Except as may be required by legal proceedings no sign shall be erected or maintained on any property by anyone, including, but not limited to, a property owner or a tenant. A sign size, color and content and the number and location of further reserves the right to promulgate and be amended from time to time. Uniform sign regulations: the Uniform Sign Regulations which shall establish standard design criteria for all signs including, but not limited to, real estate sales signs, erected upon any property in Dorset Downs.
- e. Mailboxes- No mailbox shall be erected or maintained on any property until the proposed mailbox design, color and the exterior appearance of any mailbox shall be made without prior approval by the developer. The developer further reserves the right to establish uniform mailbox regulations (the " Uniform Mailbox regulations") which shall define standard design criteria for all mailboxes erected upon any property in Dorset Downs.
- f. Maintenance – It shall be the responsibility of each Property Owner, tenant, contractor, or subcontractor to prevent the development of any unclean, unsightly, unkept, unhealthy, or unsafe conditions of buildings or grounds on any property which shall tend to substantially decrease the beauty or safety of Dorset Downs, the neighborhood as a show, or the specific area.
- g. Parking each property owner shall provide space for the parking of automobiles off public streets prior to the occupancy of any building to structure constructed on said property, in accordance with reasonable standards established by the developer.

- h. Sewage Disposal – Prior to the occupancy of a building or structure on any property, proper and suitable provisions shall be made for the disposal of the disposal of sewage by connection with the sewer mains of the Chesterfield County public sewer system or other means of sewage disposal if other means are approved by Chesterfield County and the developer for use in Dorset Downs.
- i. Public Water - Prior to the occupancy of a building or structure on any Property, proper and suitable provisions for water shall be made by connection with the water lines of the Chesterfield County public water system or any other water system approved by Chesterfield County and the developer for use in Dorset Downs.
- j. Utility Easements – The Developer hereby reserve a perpetual alienable, and releasable easement and right on over, and under the properties to erect, maintain and use electric, Community Antenna Television (C.A.T.V.) and telephone poles, wires, cables, conduits, drainage ways, sewers, water mains, and either suitable equipment for the conveyance and use of electricity, telephone equipment for the conveyance and use of electricity, telephone equipment, C.A.T.V., gas, sewer, water, drainage, or other public convenience or utilities on, in, or over those portions of such property as may be reasonably required for utility line purposes; provided, however, that no such utilities for construction or a building whose plans were approved pursuant to these Covenants by the Developer, or be designated as the site for a building on a plot plan for erection of a building which has been approved in writing by said developer. These easements and rights expressly include the right to cut any trees, bushes, or shrubbery, make any grading or the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and maintain reasonable standards of health, safety, and appearance.
- k. Antenna – Except as otherwise provided by applicable law, no television antenna, radio receiver, radio sender, or other similar device shall be attached to or installed in any property on the exterior portion of any building or structure on any property except as follows:
  - 1. The provisions of this paragraph shall not prohibit the developer from installing or approving the installation of equipment necessary for a master antenna system, C.A.T.V., mobile radio systems, or other similar systems within the properties.
  - 2. Should C.A.T.V. services be unavailable and good television reception not be otherwise available a property owner may make written application to the developer for the permission to install a television antenna, stating the proposed antenna" size, height, color, location and design, and such permission shall not be unreasonably withheld.
  - 3. No satellite dish antenna shall be installed upon any property or attached to the exterior portion of any building or structure on any property.

- l. Fences – No chain link fence shall be erected or maintained on any property.
- m. Dog Pens – No dog pen shall be erected or maintained on any property until the proposed dog pen design, color fencing material, size and location have been approved in writing by the developer, No alteration in the exterior appearance of any dog pen shall be made without like prior written approval by the developer.

**Part II**  
**Additional Restrictions affecting residential Lots**

- 1. Residential Lots or Lots as used in this part II shall mean and refer to all those parcels or tracts of land within the properties intended for subdivision or subdivided into properties or lots intended for the construction of a detached house or single family dwelling unit (hereinafter referred to as a "dwelling Unit")
  - a. Minimum Size. Plans required of these covenants will not be approved unless the proposed dwelling unit or any other structures will give the minimum square footage of enclosed dwelling space specified in the pertinent sales contract and deed. The term "enclosed dwelling space" shall not include garages, terraces, and decks. Open porches, screened porches, and similar areas.

Other Restrictions

- b. All residential lots shall be used for residential purposes, recreational purposes incidental thereto, and for customary accessory uses. The use of a portion of a dwelling unit on a residential lot as an office by the Owner or tenant thereof shall be considered a residential use if such use does not create undue customer or client traffic, as determined by the developer, to and from the unit or the property.
- c. No structure, except as hereinafter provided, shall be erected, altered, placed, or permitted to remain on any residential lot other than one (1) detached single family accessory building does not overcrowd the property as determined by the developer and provided, further that such building use not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building.
- d. The provisions of this paragraph shall not prohibit the developer from using any dwelling units or accessory permission to any builder to use any specific dwelling unit or accessory building as models. In addition, the developer may grant permission to any builder to use any specific dwelling unit or accessory building as a model; selection of the particular dwelling unit or accessory building and any rules or regulations governing the use of such dwelling unit or accessory building as a model shall be determined by the developer.

## 2. Completion of Construction

- a. The exterior of each dwelling unit and all other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the natural calamities. Dwelling units and other structures may not be temporarily or permanently issued until the exterior thereof has been completed. During the continuance of construction, the owner or each residential lot shall require is contractor to maintain the lot in a reasonably clean and uncluttered condition.
- b. The failure to complete the exterior of any dwelling unit or any other structure within the one year shall constitute a violation and breach of these covenants The developer hereby reserves a perpetual, alienable, and releasable easement and right to enter upon any property for the purpose of completing the exterior of such dwelling unit or any other structure which is violation of these covenants.
- c. Garbage – Each residential lot owner shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects mess be placed or stored in order to conceal them from view form the road and adjacent properties. The developer prior written approval by the developer must approve plans for such screened area delineating the size design, specifications, exterior color or finish, and location. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground, and such underground garbage receptacles mad fuel tanks and their location mist likewise be approved by the developer prior to construction. The developer reserves the right to approve the selection of waste management vendor authorized to provide garbage pickup within the properties.
- d. Mobile homes, Boat Trailers Outbuildings, Etc.- No mobile home trailer, barn or other similar out building or structure shall be placed on any residential lot at any time either temporarily or permanently. Except as provided below boat, boat trailers, campers, recreational vehicles, oversized vehicles, or utility trailers may be maintained on a residential lot, but only within an enclosed or screened area such that they are not generally visible from the road or adjacent properties. No alteration in exterior appearance of any enclosed or scented area shall be made without like prior written approval by the developer. A small boat, boat trailer, or boat on a boat trailer may be placed in the rear yard to a residential lot without being enclosed by a screened area if such boat, b oat trailer, or boat on a boat trailer does not exceed an overall height of four (4') feet height above ground level.
- e. Temporary Structures- No structure of a temporary character other than shelters or temporary structures used by the contractor during construction of the main dwelling unit shall be placed upon any residential lot at any time. Temporary shelters or structures permitted during construction may not, at any time be used as residences or permitted to remain on the property after completion of

construction. The design and color of structures temporarily placed on a residential lot but a contractor shall be subject to reasonable aesthetic control temporarily placed on a residential lot by a contractor shall be subject to reasonable aesthetic control by the developer.

- f. Subdivision of Lots – No residential lot shall be subdivided or its boundary lines changed, nor shall be subdivided or its boundary lines changed except with the prior written consent of the Developer. However, the developer hereby expressly reserves the right to replete any residential lot(s) owned by it and shown on the plat of any subdivision within the properties in order to create a modified building lot or lots, and to take such other steps as are reasonable necessary to make such replatted lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, rights of way, roads, bike trails, bridges, parks recreational and community facilities, and other amenities to conform to the new boundaries of said replatted lot.

### **Part III**

#### **Duration and violation of Covenants**

All Covenants set forth in this declaration and any amendments thereto shall run with the land and shall be binding on all parties and persons claiming under then, specifically including, but not limited to, the successors and assigns, if any, of the developer for a period of thirty (30) years. Covenants shall be automatically extended for successive periods of ten (10) years.

Duly Called Meeting shall mean and refer to any open meeting of the owners of the properties called by the developer for said purposes, subject to the giving of votes on subject to giving proper notice.

Enforcement - In the event of a violation or breach of any of the covenants by any owner tenant of such owner, the owners of properties in the neighborhood or in Dorset Down, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or reach in any event. In addition to the foregoing, the developer shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

Other Remedies – In addition to the foregoing, the Developer shall have the right, whenever there shall have been placed or constructed on and property in Dorset Downs any violation of these restrictions, to enter upon such property where such violation exists and summarily abate or remove the same the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner tenant, or agent of the owner; provided, however, that if the developer in its reasonable discretion determines that immediate corrective action is required, and such action is not performed immediately by the owner, tenant, or agent of the owner, the developer or its agent shall have the right to enter immediately and summarily abate or remove such violation the expense of the owner. Any such entry and abatement or remove al shall not be deemed a trespass.

No Trespass – Whenever the developer or its agent is permitted by this declaration to correct, repair, enhance improve e, clean, preserve e, clear out, remove, or take any action on any property or on the easement areas adjacent thereof entering the property and taking such action shall not be deem a trespass.

No Waiver – The failure to enforce any covenant, regardless of how long such failure shall continue, this shall not constitute waiver of or a bar to such right to enforce.

Costs/Liens.

Costs - whenever the developer is permitted by this declaration to correct, repair, enhance improvement clean, preserve, clear out, remove, or take any action on any property or on the easement areas adjacent thereto and entitled to have such cost paid by the owner of the property on or adjacent to which such corrective action is performed, the cost together with interest thereon at the maximum annual rate permitted by law from the due date and costs of collection therefore including a reasonable attorney's fee, shall be a charge and continuing lien on the real property and improvements thereon against which such cost is charged, in the hands of the then owner, his heirs, devisees, personal representatives, tenants, and assigns , and in addition shall also be the personal obligation of the Owner of such real property at the time when such cost become due and payable. The cost of corrective action shall be billed at the completion of such corrective action, and all bills shall be due completion of such corrective action shall billed at the completion of such corrective action, and all bills shall be due and payable thirty (30) days from the date of mailing of same.

Judgment - the cost of corrective action billed to an owner is not paid within thirty (30) days after the due date, the developer may bring an action at law against the owner personally to recover such cost, plus the costs of preparing the attorney's fee; in the event a judgment is obtained, such judgment shall include interest on the cost as above provided and a reasonable attorney's fee together with the costs of the action.

Subordination of Lien – The lien provided for herein shall be subordinate to the lien of any first deed of covenants. In the event a creditor (other than the developer or the creditor of the developer) acquires title to any property pursuant to foreclosure or any other proceeding or deed in lieu of foreclosure, said creditor shall be subject to such lien placed upon such property during the time in which the creditor holds the title to such property. (P)

AYES: Messrs. Wilson, Gecker, Litton and Bass.  
ABSENT Mr. Gulley.

**06SN0166:\*** In Matoaca Magisterial District, **ROBERT SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 51.8 acres fronting approximately 1,050 feet on the south line of DuVal Road approximately 2,870 feet west of Otterdale Road. Tax ID 703-675-1477 (Sheet 14).

Ms. Peterson presented an overview of the request and staff's recommendation.

Mr. Jim Theobald, the applicant's representative, accepted staff's recommendation, noting the proposed zoning and land use conformed to the Upper Swift Creek Plan, limited density and the proffered conditions addressed the development's impact on capital facilities. He further noted there had been several community meetings and he was not aware of opposition to the request.

Mr. Wilson opened the discussion for public comment.

Dr. Tom Pakurar, a County resident, expressed concerns relative to the environmental impact of the proposed development on the Upper Swift Creek Reservoir and stated he felt, given the most recent rejection of the County's Regional Best Management Plan by the Environmental Protection Agency, Proffered Condition 3 should be modified to delete any reference to the Regional BMP Plan and the County would best be served by requiring the developer to construct his own BMP.

Ms. Marlene Durfee, Executive Director of the Responsible Growth Alliance of Chesterfield, expressed concerns relative to sprawl, lack of infrastructure and orderly development and the development's impact on capital facilities in the Upper Swift Creek area.

Ms. Andrea Epps, a County resident, referenced Dr. Pakurar's comments and expressed concern regarding overdevelopment of the area.

There being no one else to speak, Mr. Wilson closed the public comment.

In rebuttal, Mr. Theobald noted the language of Proffered Condition 3 was provided by Environmental Engineering in response to the Department of Environmental Quality and Army Corps of Engineers issues, noting the issues had been realized and strategies formed to deal with them.

Mr. Bass stated he understood the applicant would be required to provide a permanent BMP; noted the proffered conditions addressed area transportation improvements; and indicated the School Board was responsible for, and needed to address, the acquisition of sites for schools in the area.

In response to questions from Mr. Bass, Ms. Richardson indicated there were currently no other school sites planned in the area other than those outlined in the Capital Improvement Program.

In response to questions from the Commission, Mr. McElfish addressed issues relative to drainage, erosion and temporary sediment basins versus BMP facilities.

Ms. Rogers explained the difference between the intent of the language of Proffered Condition 3 in the "Request Analysis" and the concerns expressed not being addressed by the proffer. She suggested amended language for Proffered Condition 3, which she read.

In response to questions from the Commission, staff addressed concerns relative to the designs of temporary sediment basins versus permanent BMPs; maintenance of the .22 standard on-site; performance tests; protection of the standards; the applicant being required to construct a permanent BMP as well as being required to contribute to the Regional BMP Fund; deferral of the request to address the

issues raised; public utilities; the impact of the proposed development on capital facilities; and other concerns.

In response to a question from Mr. Wilson, Mr. Theobald stated he felt the original language was sufficient and he did not wish to defer the request.

After a brief discussion, Mr. Theobald stated his client was agreeable to the amended language of Proffered Condition 3, as provided by staff.

On motion of Mr. Bass, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 06SN0166 and acceptance of the following proffered conditions:

### PROFFERED CONDITIONS

The property owner and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owners and applicant, the proffers shall immediately be null and void and of no further force or effect.

1. Master Plan. The Textual Statement dated February 2, 2006 shall be the Master Plan. (P)
2. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. Stormwater. Sediment basins shall remain in place and/or new BMPs constructed to achieve the .22 phosphorous standard until the downstream regional BMP to which this site drains has been constructed. These basins/BMPs shall be designed as a permanent facility unless, at the time of tentative subdivision approval, a downstream BMP to which the site drains and which achieves the .22 phosphorous standard has been constructed or has been committed for construction, as determined by Environmental Engineering. (EE)
4. Utilities. The public water and wastewater systems shall be utilized. (U)
5. Cash Proffer. In addition to the Transportation Contribution described in Proffered Condition 8, the applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of each building permit for infrastructure improvements within the service district for the property:
  - a. If payment is made prior to July 1, 2006, \$6,685.00 per dwelling unit. At time of payment \$6,685.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$5,331.00 for schools, and \$404.00 for fire stations; or



- b. If payment is made after June 30, 2006, the amount approved by the Board of Supervisors not to exceed \$6,685.00 per dwelling unit pro-rated as set forth in Proffered Condition 5.a. above adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made.
  - c. Provided, however, that if any building permits issued on the property are for senior housing, as defined in the proffer on age-restriction, the applicant, sub-divider, or assignee(s) shall pay, in addition to the Transportation Contribution described in Proffered Condition 8, \$1,354.00 per dwelling unit if paid prior to July 1, 2006, or the amount approved by the Board of Supervisors, not to exceed \$1,354.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006. At the time of payment, the \$1,354.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, and \$404 for fire stations. Payments in excess of \$1,354.00 shall be prorated as set forth above.
  - d. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
  - e. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the county. (B&M)
6. Age Restriction. Any lots for age-restricted dwelling units shall be grouped together on a particular portion of the Property and shall not be scattered among other residential units. At the time of recordation of a subdivision plat or the approval of any site plan, the lots shall be noted as age-restricted. Any site plan for age-restricted dwelling units shall also note the restriction. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units designated as age-restricted shall be restricted to "housing for older persons; as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein. (B&M)
7. Density. The total number of residential dwelling units on the Property shall not exceed 2.0 residential units per acre. (P)
8. Transportation Contribution. The Applicant shall pay to the County prior to recordation of each subdivision section or prior to site plan approval for any residential development, the amount of \$8,915.00 multiplied by the total number of lots on each of the approved final check plats or by the total number of residential units on each site plan. If these amounts are paid after June 30, 2006, the amount paid shall be adjusted upward by any Board of Supervisors' approved increase in the Marshall and Swift Building Cost Index between July

1, 2005 and July 1 of the fiscal year in which the payment is made. The payment shall be used for road improvements in accordance with the Board's Cash Proffer Policy.

If, upon the mutual agreement of the Transportation Department and the Applicant, the Applicant provides road improvements (the "Improvements"), other than those road improvements identified in Proffered Condition 10, then the Transportation Contribution in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements as determined by the Transportation Department. Thereafter, the Applicant shall pay the balance of the Transportation Contribution as set forth in this Proffered Condition. For the purposes of this Proffered Condition, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Applicant shall receive prior written approval by the Transportation Department for any credit. (T)

9. Right-of-Way Dedication. Prior to any site plan approval, in conjunction with recordation of the initial subdivision plat, or within sixty (60) days from a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way along the southern side of Duval Road, measured from the centerline of that part of Duval Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of the County. (T)
10. Road Improvements. To provide an adequate roadway system, the developer shall be responsible for the following improvements with initial development of the Property:
  - a. Construction of additional pavement along Duval Road at each approved access to provide left and right turn lanes, if warranted, based on Transportation Department standards.
  - b. Widening/improving the south side of Duval Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder and overlaying the full width of the road with one and one half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department, for the entire Property frontage.
  - c. Dedication to the County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the developer is unable to acquire the "off-site" right-of-way that is necessary for the road improvements described in Proffered Condition 10.a., the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the

road improvements within available right-of-way as determined by the Transportation Department. (T)

11. Access. Direct vehicular access from the Property to Duval Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)

AYES: Messrs. Wilson, ~~Gecker~~, Litton and Bass.

**ABSTENTION: Mr. Gecker.**

ABSENT Mr. Gulley.

◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.**

**05SN0328:**\* In Matoaca Magisterial District, **BERNARD SAVAGE** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-9) to Residential Townhouse (R-TH) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 5.5 acres fronting approximately 300 feet on the north line of Genito Road, also fronting approximately 600 feet on the east line of North Woolridge Road and located in the northeast quadrant of the intersection of these roads. Tax IDs 719-685-2188 and 3788; 719-686-1637, 2337, 2706, 3038, 3423 and 4238; 719-687-Part of 2245; and 720-686-Part of 3234 (Sheet 9).

Mr. Clay presented an overview of the request and staff's recommendation for approval subject to the applicant addressing concerns relative to the provision of an adequate size area for a focal point and the location of sidewalks. He also noted on March 15 and 21, 2006, in response to concerns expressed at the February 21<sup>st</sup> Planning Commission meeting, the applicant submitted additional proffered conditions relative to minimum house size and architectural treatment.

Ms. Barbara Jacocks, the applicant's representative, accepted staff's recommendation, noting concerns relative to minimum house size and architectural treatment had been addressed.

Mr. Wilson opened the discussion for public comment.

Mr. Shawn Clouse, representing Edgewater, Sections 1 and 2, expressed concerns relative to overdevelopment of the property, traffic hazards, design plan standards and BMP requirements and referenced a petition containing twenty-seven (27) signatures opposing the request. Mr. Francis Snell, Dr. Tom Pakurar, Ms. Kathy Rivera and Mr. Don Hughes, area residents; and Ms. Marlene Durfee, Executive Director of the Responsible Growth Alliance of Chesterfield, expressed concerns relative to overdevelopment of the property, density, existing sediment basin problems, water quality and the cumulative impact of the development on the community.

There being no one else to speak, Mr. Wilson closed the public comment.

In rebuttal, Mr. Mickey Blalock, representing the applicant, addressed issues of reduced density, open space and BMPs, citing benefits of the development to the County and noting the applicants had attempted to comply with all requests made of them.

Mr. Bass stated he felt the proposed layout was much improved from the original version; however, he still had concerns regarding no BMP certifications in five (5) years.

Mr. Blalock explained the current status of the existing sediment basins and plans to service them.

In response to a question from Mr. Wilson, Mr. Blalock stated he was willing to proffer that no building permits would be issued until the three (3) BMPs were certified.

In response to questions from Mr. Bass, Mr. Blalock stated he did not wish to defer the request and would prefer to proceed with the inclusion of the additional proffered condition to which he agreed.

Mr. Litton expressed concerns regarding the unmaintained existing BMPs and the attempt to add more to the site. He stated he felt the existing water quality concerns needed to be addressed before the case was moved forward.

Messrs. Gecker and Wilson stated they were uncomfortable with the request, as postured, and felt a deferral would be appropriate until such time as measures were in place and functioning to the satisfaction of staff.

Mr. Blalock requested a deferral to the April 18, 2006, Planning Commission public hearing, noting he would take the necessary steps to address the Commission's concerns.

The following motion was made at the applicant's request.

On motion of Mr. Bass, seconded by Mr. Gecker, the Commission resolved to defer Case 05SN0328 to the April 18, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

**06SN0119:\*** (Amended) In Bermuda Magisterial District, **DSRA, LLC** requested rezoning and amendment of zoning district map from Agricultural (A) and General Business (C-5) to Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for commercial use. This request lies on 4.1 acres fronting approximately 390 feet on the south line of West Hundred Road, also fronting approximately 900 feet on the west line of Interstate 95 ramp and located in the southwest quadrant of the intersection of these roads. Tax IDs 800-653-Part of 4668 and 800-654-2833, 4223 and Part of 2613 and Part of 5211 (Sheet 26).

Ms. Peterson presented an overview of the request and staff's recommendation for denial, noting that the application failed to restrict any additional vehicular movements from the site to West Hundred Road, thereby creating health, safety and welfare concerns related to transportation impacts; Proffered Condition 5 contained enforcement interpretation and legal issues; indicated that on March 21, 2006, in response to

concerns expressed by the Bermuda District Commissioner, Proffered Condition 4 was amended to restrict uses to two (2) restaurants, not to include carry out or fast food; and Proffered Condition 5, which attempted to condition the accessibility of the adjacent property to the south and contained enforcement interpretation and legal issues, was withdrawn.

Mr. Dean Hawkins, the applicant's representative, did not accept staff's recommendation.

Mr. Wilson opened the discussion for public comment.

Messrs. Michael Sweeny and Mukesh Trivedi, area property/business owners, voiced opposition to the request, citing concerns relative to access, additional traffic congestion, existing crossover problems and the health, safety and welfare concerns related to transportation impacts that would be generated by the development.

There being no one else to speak, Mr. Wilson closed the public comment.

In response to questions from the Commission, Mr. McCracken addressed transportation issues.

Mr. Wilson stated he had attended several community meetings regarding the request and was sensitive to the transportation challenges on Route 10, particularly in this area; however, he recognized the rights of property owners to develop their property and did not feel the request should be denied.

Mr. Wilson made a motion to recommend approval of Case 06SN0119 and acceptance of the following proffered conditions, including amended Proffered Condition 4.

#### PROFFERED CONDITIONS

1. Except for timbering approved by the Virginia Division of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a Land Disturbance Permit has been obtained from the Department of Environmental Engineering and the approved devices have been installed. (EE)
2. No direct vehicular access shall be permitted to the property from West Hundred Road (State Route 10). (T)
3. The public water and wastewater systems shall be used. (U)
4. Uses shall be limited to two (2) restaurants. (P)

Mr. Litton seconded the motion for purposes of discussion.

Mr. Gecker stated he felt area businesses would be potentially negatively impacted by the development and he could not support approval.

The vote on Mr. Wilson's motion was as follows:

AYES: Messrs. Wilson and Litton.

NAYS: Messrs. Gecker and Bass.  
ABSENT: Mr. Gulley.

The motion failed; therefore, the case was carried forward to the April 18, 2006, Planning Commission public hearing.

The Commission recessed at approximately 10:19 p. m.

The Commission reconvened at approximately 10:30 p. m.

**06SN0178:\*** In Matoaca Magisterial District, **THE REED'S LANDING CORP.** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-15). Residential use of up to 2.90 units per acre is permitted in a Residential (R-15) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1.01 - 2.5 units per acre. This request lies on 205.1 acres fronting approximately 2,870 feet on the north line of Hickory Road at its intersection with Halloway Avenue. Tax IDs 781-618-6468; 782-619-6148; 784-619-4378; and 784-620-1961 (Sheets 41 and 45).

Ms. Orr presented an overview of the request and staff's recommendation for denial, noting the proposal failed to comply with the Southern and Western Area Plan and to provide for adequate transportation improvements, as recommended by the Thoroughfare Plan. She stated, on March 20, 2006, the applicant submitted additional proffered conditions relative to density, permitted uses, community identification signage, and fencing within open space along Hickory Road.

Mr. Oliver D. "Skitch" Rudy, the applicant's representative, did not accept staff's recommendation, noting concerns relative to density, permitted uses, community identification signage, fencing within open space along Hickory Road, transportation improvements, public utilities, etc., had been addressed. He stated the development would be constructed by quality developers, would be an asset to the County and warranted approval.

Mr. Wilson opened the discussion for public comment.

Mr. Jerry Journigan; Ms. Linda Kidd; Mr. Samuel Smith; Mr. Roland Britton; Ms. Brenda Stewart; Dr. Samuel Busch; Mr. Edgar Wallen; and Ms. Faith Hess, area residents and/or property owners, voiced opposition to the request, citing concerns relative to inappropriate zoning, density, overdevelopment of the property, increased traffic volumes, road improvements, lack of infrastructure to accommodate the development, overcrowding of schools, insufficient buffers and open space, drainage, protection for an area cemetery, design of the development, and other concerns.

Dr. Tom Pakurar, a Clover Hill resident, voiced concerns relative to the lack of proffered conditions to address water quality, drainage and the environmental impact of the project in the area and stated he did not feel the proposal was in the appropriate posture to proceed.

Ms. Marlene Durfee, Executive Director of the Responsible Growth Alliance for Chesterfield, addressed issues related to smart growth, open space, buffers, designs of the project, density, etc., and stated she did not feel the proposal was in the appropriate posture to proceed.

Mr. Jim Hayes, one of the principles of The Reed's Landing Corp., stated he felt the development would be comparable to Stoney Glen South and a tremendous asset to area land values.

There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Bass stated he concurred with the concerns expressed relative to area roads; noted that the proffered conditions had been submitted in a piecemeal fashion; stated that, although he appreciated the additional information submitted today, he did not see any substantive changes to the configuration of the development; that he was disappointed the developer had not agreed to construct the entire North/South Arterial Road across the property; and did not feel a recommendation for approval was warranted.

Mr. Gecker stated he was disappointed no proffered conditions had been submitted to address sidewalks, water quality and road improvements other than the part of the road which the applicant agreed to construct.

Mr. Litton concurred with Mr. Gecker and expressed concern there were no conditions addressing house sizes, architecture, etc.

Mr. Wilson stated, in addition to the same concerns as Messrs. Gecker and Litton, he was concerned about the layout of the development.

On motion of Mr. Bass, seconded by Mr. Gecker, the Commission resolved to recommend denial of Case 06SN0178.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

#### **H. CITIZENS' INPUT ON UNSCHEDULED MATTERS.**

Ms. Marlene Durfee, Executive Director of the Responsible Growth Alliance of Chesterfield, requested the Citizens' Input on Unscheduled Matters not be placed at the end of the Commission's agenda.

Dr. Tom Pakurar, a Clover Hill resident, asked the Commission to consider undertaking a definitive plan for water quality in the Upper Swift Creek area.

#### **I. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Gecker, seconded by Mr. Bass, that the meeting adjourned at approximately 11:41 p. m. to April 18, 2006, at 12:00 Noon in Room 502 of the Administration Building at the Chesterfield County Government Complex.

AYES: Messrs. Wilson, Gecker, Litton and Bass.

ABSENT: Mr. Gulley.

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Chairman/Date

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Secretary/Date